

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

PAUL FRANKLIN BENSON,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:08-CV-1506-D
VS.	§	
	§	
MICHAEL ASTUE, et al.	§	
	§	
Defendants.	§	

**ORDER**

The United States Magistrate Judge recommends that this action be dismissed under Fed. R. Civ. P. 41(b) for want of prosecution based on plaintiff's failure to submit the information necessary for the court to determine whether he is entitled to proceed *in forma pauperis*. Plaintiff objects to the recommendation. Following *de novo* review, the court adopts the findings, conclusions, and recommendation of the magistrate judge and dismisses this action without prejudice by judgment filed today.


Plaintiff filed this lawsuit on August 27, 2008, almost four months ago. When he filed suit, he submitted on a court-provided form a motion to proceed *in forma pauperis*. But when he submitted the form, he did not include any of the supporting information that the form requires. On August 28, 2008 the magistrate judge issued an order directing plaintiff to cure this deficiency and giving him 30 days to do so. He included with his order a form of affidavit for plaintiff to use in addressing the deficiency. After plaintiff failed to comply with the order, the magistrate judge issued an October 14, 2008 order granting plaintiff until November 3, 2008 to comply with the August 28, 2008 order, and noting that his failure to comply would result in a recommendation that the case be dismissed for want of prosecution. On December 2, 2008, after plaintiff had failed *for*

*a second time* to comply with the August 28, 2008 order, the magistrate judge filed his findings, conclusions, and recommendation that the case be dismissed without prejudice for want of prosecution.

On December 8, 2008 plaintiff filed a one-page objection to the magistrate judge's findings, conclusions, and recommendation, but he still has not complied with the orders filed August 28, 2008 and November 3, 2008 or submitted the form that the magistrate judge provided him. Although plaintiff's objection is not entirely comprehensible, he appears to be asserting that he submitted the court-provided form and that he would like another opportunity to comply. But the magistrate judge's August 28, 2008 order was clear in its requirements, and the magistrate judge provided plaintiff a copy of the proper affidavit form. Plaintiff failed to comply with not one, but two court orders, and he still did not comply when he filed his objection. Given that plaintiff has now effectively had three opportunities to fill out and submit an affidavit that shows he is qualified to proceed *in forma pauperis*, and has failed to make the required showing, the court adopts the findings, conclusions, and recommendation of the magistrate judge that this case be dismissed without prejudice.

**SO ORDERED.**

December 23, 2008.

  
SIDNEY A. FITZWATER  
CHIEF JUDGE